

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

WINTER J. SARGENT

v.

CA 11-220 ML

MICHAEL J. ASTRUE,
COMMISSIONER OF SOCIAL SECURITY

MEMORANDUM AND ORDER

This matter is before the Court on the Commissioner's Objection to the Report and Recommendation issued by Magistrate Judge Martin in this request for judicial review of the decision of the Commissioner denying disability insurance benefits to Plaintiff. Magistrate Judge Martin found that the Commissioner's determination that Plaintiff is not disabled is deficient because it lacks substantial evidentiary support in the record and because it is affected by legal error. Magistrate Judge Martin recommends that Plaintiff's Motion to Reverse be granted and that the matter be remanded to the Commissioner for further proceedings consistent with the Report and Recommendation.

In his objection, the Commissioner seems to concede that Magistrate Judge Martin was correct in his assessment that the ALJ failed to point to record evidence to support the weight he accorded to the treating source opinion. The Commissioner suggests that the evidence upon which the ALJ relied may be "gleaned" from his decision. This Court disagrees. As Magistrate Judge Martin found, the record in this case contains testimony of the Plaintiff as well as various witnesses; it also contains medical records which chronicle Plaintiff's diagnosis and treatment for several

debilitating conditions. The ALJ is in the best position to sift through that evidence, weigh it, and then to explain how he viewed it *vis a vis* the opinions of Plaintiff's treating physician. "Gleaning" by this Court would necessarily require some speculation as to the interplay of conflicting evidence.

Having considered the Commissioner's objection and Magistrate Judge Martin's comprehensive and thoughtful Report and Recommendation, this Court finds that both sides would be better served by a remand so that the ALJ can explicitly set forth his findings. Accordingly, the Court adopts the Report and Recommendation in its entirety.

Plaintiff's Motion to Reverse is GRANTED and the Commissioner's Motion to Affirm is DENIED. The matter is REMANDED to the Commissioner for further proceedings consistent to the Report and Recommendation.

SO ORDERED:

/s/ Mary M. Lisi
Mary M. Lisi
Chief United States District Judge
November 6, 2012